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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

3 UNITED STATES OF AMERICA,

4 v.

13 CR 485 (CM)

5 FAOUZI JABER and ALI FAYAD,

6 Conference

7 Defendant.

8 -----x
9 New York, N.Y.
10 January 11, 2017
4:05 p.m.

11 Before:

12 HON. COLLEEN MCMAHON,

13 District Judge

14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 GEORGE D. TURNER

Assistant United States Attorney

18 FEDERAL DEFENDERS OF NEW YORK

19 Attorneys for Defendant Jaber

20 JONATHAN MARVINNY

21 LOUIS G. ADOLFSON

Attorney for Defendant Fayad

22 ALSO PRESENT: MARWAN ABDEL-RAHMAN, Interpreter (Levantine
23 Arabic)

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(Case called)

MR. TURNER: Good afternoon. George Turner for the government.

THE COURT: Good afternoon, Mr. Turner.

MR. MARVINNY: Good afternoon. Federal Defenders of New York by Jonathan Marvinny. I'm standing in for Sabrina Shroff, who's on trial.

MR. ADOLFSON: Judge, Louis Adolfson for Ali Fayad.

THE INTERPRETER: Your Honor, can I have a minute to fix the equipment?

THE COURT: You certainly may have a minute to fix the thing.

MR. TURNER: Your Honor, I have not previously spoken to --

THE COURT: Hang on. Hang on. We're going to fix this up.

MR. TURNER: It is a 13 CR.

THE DEPUTY CLERK: Start from the top, Judge.

THE COURT: We've got the appearances.

So here we are. What's going on, Mr. Turner?

MR. TURNER: Your Honor, there were three defendants indicted in this case. The only defendant who is here is Mr. Jaber. He was extradited in April of this past year, 2016. Discovery has been produced, and it was the government's intention to ask for at least a motion schedule today from the

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1 Court.

2 As I understand it, Mr. Adolfson represents Ali Fayad,
3 who is one of the other two defendants in this case. An
4 extradition request for the other two defendants is pending and
5 has been pending for some time. Those two defendants are in
6 Lebanon, your Honor.

7 THE COURT: Hi, counsel. How are you?

8 MR. ADOLFSON: Well, your Honor.

9 THE COURT: But your client is not here?

10 MR. ADOLFSON: He's not here. He's not here. His
11 extradition was denied by the Czech Republic, and he was sent
12 to Lebanon. My understanding, Mr. Turner, was that the
13 Lebanese government, which does not have an extradition treaty
14 with the United States but, nonetheless, complies with
15 requests, has denied extradition.

16 THE COURT: Has what?

17 MR. ADOLFSON: Denied extradition.

18 THE COURT: Well, I'm going forward with Mr. Fayad.
19 I'm sorry. Going forward with Mr. Jaber on the theory I have
20 one defendant here. I don't have the two other defendants.
21 I'm not waiting for them.

22 MR. TURNER: Particularly given the timing and the
23 long period of time that the extradition requests have been out
24 there, your Honor, the government agrees with that approach.

25 THE COURT: Right.

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1 MR. ADOLFSON: Your Honor, can I be heard briefly?

2 THE COURT: On that?

3 MR. ADOLFSON: No, not on that subject.

4 THE COURT: What would you like me to do?

5 MR. ADOLFSON: I've tried once before, and I'm
6 required to tell you. Once before I was in the Southern
7 District for Mr. Fayad when he was in the Czech Republic, and I
8 asked Judge Castel, he was on Part 1, to issue an order
9 directing the U.S. Attorney's Office to appear for deposition
10 in Lebanon. He denied my request and said that he had no
11 jurisdiction because Mr. Fayad was not here and that I should
12 inform any judge of his decision. So I'm informing you right
13 now that that happened.

14 THE COURT: Fine. Let's talk about what this case is
15 really about. This case is about Mr. Jaber. It's not about
16 anybody else or anything else. I realize Ms. Shroff is the
17 lawyer on the case, but I have to set a motion schedule and
18 this case has to start to move.

19 MR. MARVINNY: That's fine, Judge.

20 THE COURT: It's a very old case. Do you have any
21 idea, Mr. Marvinny, what motions Ms. Shroff might be
22 contemplating?

23 MR. MARVINNY: I'm sorry. I'm sorry, your Honor. I
24 don't. I know she asked for a motion schedule.

25 THE COURT: I'm comfortable setting one. I'm not

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1 comfortable not setting one. So she's currently on trial. Do
2 we know how long that's going to be?

3 MR. MARVINNY: Supposed to be a two- to three-week
4 trial, your Honor. It started on Monday.

5 THE COURT: All right. Defense motions by
6 February 10. Government response by March 3. Defense reply by
7 March 10.

8 THE DEPUTY CLERK: Let's pop it on for March 23 at
9 3:45.

10 THE COURT: Thursday, March 23, at 3:45. Time
11 excluded in the interest of justice, the defendant's interest
12 in a speedy trial being outweighed by the need or desire of his
13 counsel to make motions to the Court. And, obviously, that's
14 all statutorily excluded time.

15 MR. MARVINNY: Yes, your Honor. May I have one moment
16 before you adjourn this?

17 THE COURT: Of course.

18 MR. MARVINNY: Thank you.

19 (Pause)

20 MR. MARVINNY: Your Honor.

21 THE COURT: Yes.

22 MR. MARVINNY: I think Mr. Jaber wishes to address the
23 Court. I think it's not consistent with my advice, but I don't
24 think he's going to be doing himself any harm. I believe he
25 wants to represent to the Court that the other two defendants

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1 have been released and are free in Lebanon.

2 THE DEFENDANT: The Lebanese Minister of Justice
3 refused to surrender the two other defendants to the United
4 States government. They set them free in Lebanon. And the
5 brother of Fayad also was released. He was one of the
6 kidnappers or the hijackers.

7 THE COURT: Okay. Then, Mr. Jaber, you'll just have
8 to face this all by yourself, because I'm not releasing you
9 until after your trial and you're acquitted.

10 THE DEFENDANT: Of course.

11 THE COURT: So the fate of the other gentlemen is
12 really of no particular interest to me. This is your case, and
13 yours alone, as far as I'm concerned.

14 MR. MARVINNY: Thank you, your Honor.

15 THE DEFENDANT: I just wanted to save the Court some
16 time by bringing this information to the Court's attention.

17 THE COURT: Thank you. Fortunately, all my time is
18 for Mr. Jaber. Great.

19 (Adjourned)
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